IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 16.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.793 of 2006

Rani ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary,
Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.

2.The District Magistrate and
District Collector,
Perambalur District. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the detention order in Criminal M.P.No.33/2006 dated 03.08.2006 on the file of District Magistrate-cum-District Collector, Perambalur District, quash the same as illegal and direct the respondents to produce the detenu Poolaiyah @ Poonai Pandian @ Pandian, S/O Chockalinga Thevar detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu
For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the wife of the detenu, by name Poolaiyah @ Poonai Pandian @ Pandian, who is detained as a "Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest

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Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 03.08.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner, by drawing our attention to the order of the learned District and Sessions Judge, Perabalur, dated 14.07.2006 made in Crl.M.P.No.2062/2006(bail application), has submitted that the detaining authority has pre-determined to detain the detenu under Act 14 of 1982, which vitiates the ultimate order of detention passed by him .

4. We have verified the order passed by the learned District and Sessions Judge, Perambalur, which is available at page Nos.105 and 106 of the paper book supplied to the detenu. The learned Judge, while passing the order in the bail application filed by the detenu, has mentioned that the learned Additional Public Prosecutor has submitted that steps are being taken to register a case under B.L. Act. Based on the same, the bail application was dismissed on 14.07.2006, whereas the detention order was passed on 03.08.2006. As rightly pointed out by the learned counsel for the petitioner, the information passed on to the Court amply shows that the respondents have pre-determined to detain the detenu under Act 14 of 1982, which vitiates the ultimate detention order passed by the detaining authority. On this ground the detention order is liable to be quashed and accordingly, the same is quashed.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

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/true copy/

Sub Asst.Registrar

raa

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To

1.The Secretary to Government, Government of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector, Perambalur District.

3. The Superintendent, Central Prison, Tiruchirapalli.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

PV (CO)
km/19.10.

HCP. No.793 of 2006

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